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ABSTRACT

The Office of the State Comptroller in New York conducted several audits of the Tuition Assistance Program (TAP) at about 90 registered business schools in the state. TAP provides up to $3,300 per year in tuition assistance to disadvantaged students who take approved programs at the private schools. In 1985-86, TAP paid about $45 million to the schools. The auditors found significant and pervasive violations by registered schools of the laws, rules, and regulations governing their operations. The auditors found, for example, that unlicensed sales agents were used to recruit students. They also found many violations of admission requirements, such as admitting students who do not meet the entrance requirements. The schools also employed unlicensed teachers, did not offer the required minimum number of hours, failed to maintain required records, failed to refund student tuition, and lacked proper equipment to conduct courses. The improper operating practices at registered business schools contribute to the very high student dropout rate (70 percent) at these schools. Schools are profiting by encouraging students to drop out; they receive the tuition from them and then replace them with other TAP students. As a result of these violations, the auditors recommended large TAP disallowances. They also recommended enhanced monitoring of the schools and revision of regulations to put emphasis on performance results. (KC)

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OFFICE OF THE STATE COMPTROLLER
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STATE COMPTROLLER

STAFF STUDY ON THE TUITION ASSISTANCE PROGRAM FOR REGISTERED BUSINESS SCHOOLS

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OFFICE OF THE STATE COMPTROLLER
STAFF STUDY ON THE
TUITION ASSISTANCE PROGRAM FOR
REGISTERED BUSINESS SCHOOLS

EXECUTIVE SUMMARY

A. Background

With the growth in business and service employment in New York State, there has been a substantial increase in the use of proprietary registered business schools to provide vocational skill training in the business and information processing fields. Most of the registered business school growth has been concentrated in the New York City metropolitan area, and the majority of the students attending these schools are economically and educationally disadvantaged. As a result of this growth, not only are the State and Federal governments investing significant funds in these students' education through the Tuition Assistance Program (TAP) and Pell Grants, but a large number of students are also devoting their money and time to pursue new career opportunities.

Registered business schools differ from colleges in various ways. For example, registered business schools measure courses and programs in instructional hours and they grant certificates and diplomas, whereas colleges use credit hours and grant degrees. Programs at registered business schools are approved by the State Education Department (SED) on an individual course basis. Many of these schools do not operate on the standard collegiate semester basis, but instead operate on a continuous basis throughout the year with new groups of students starting as often as semimonthly. Students contractually obligate themselves for the entire program with the schools retaining a significant portion of the tuition even though students may withdraw after a few weeks (referred to as "front loaded" tuition).

Proprietary business schools are registered under Section 5002 of the Education Law and offer programs of various lengths in office occupation fields. In the registered business school sector, only students enrolled in State Education Department (SED) approved two year programs are eligible for TAP funding support.

Students at registered business schools can receive up to $3,300 a year in TAP funds: a $2,200 annual award covering the equivalent of two semesters and an additional $1,100 if eligible for an accelerated summer study term payment. Students, if eligible, can also receive up to $2,500 a year in Federal Pell grants and if needed may qualify for guaranteed student loans.

About 90 registered private business schools participate in TAP. Awards for students at these schools have grown dramatically, from $7 million in academic year 1979-80 to an estimated $45 million for the 1985-86 academic year.

B. Major Findings

Our audits have repeatedly found significant violations by registered business schools of the laws, rules and regulations governing their operations. As a result of these violations, we have recommended large TAP disallowances. In early 1985, news reports and the Staff Report to the Interagency Task Force on Student Financial Aid Program (Joint Staff Report) reported that the same violations we have continually cited in our reports may not be isolated instances but appear to be industrywide problems. As a result, we increased our audit efforts with the major emphasis placed on the administration of TAP at registered business schools.

From these audits, along with reviews by other governmental agencies and various news reports, we can only conclude that the extent of violations and number of schools involved is substantial and pervasive throughout the industry. For example, we have recently issued three reports where we disallowed all TAP funds, and we have five audits in process that show potential disallowances of all TAP funds received by the schools during the audit periods.

The March 1985 Joint Staff Report recommended several legislative changes regarding the operation of registered business schools; adherence with the proposed changes would be required for continued participation in TAP. Legislative action on these recommendations is being undertaken. However, the problems in the operation and performance of these schools are of such a serious nature that major additional improvements are needed in the regulation and oversight of this industry.

1. Improper Operating Practices

The registered business schools' violations of laws, rules and regulations occur throughout their operations, including the initial recruitment and admission of students as well as during the educational instruction provided. As a result, students may not be receiving the education they need to improve their employment opportunities and government funds intended to help the students may be wasted and abused. The following have been identified as the major abuses by registered business schools:

- RECRUITMENT - SED has found evidence of the use of unlicensed sales agents to recruit students for proprietary vocational schools. In addition; student complaints and investigative news reports have disclosed allegations of recruitment misrepresentation and promises that can't be delivered.

- ADMISSIONS - Both our audits and SED reviews have identified violations of admission requirements such as admitting students who do not meet the entrance requirements and using unapproved entrance tests. Newspaper articles have reported

allegations that schools give prospective students the answers to entrance tests before they take them. We are also concerned that in certain cases SED admission criteria may not be sufficient to assure that a student has demonstrated the ability to complete the program.

- UNLICENSED TEACHERS - Our audits and SED reviews repeatedly find a high incidence of employment of unlicensed teachers. We have identified as many as 61 unlicensed teachers at one school recently audited. News articles have reported statements by teachers who said that they were told by school officials to teach courses they had not been trained for.

- PROGRAM INSTRUCTION - We have identified several schools that have not offered the required minimum number of instructional hours, and instances where the individual program courses and hours actually offered have substantially deviated from those approved by SED.

- RECORDS - We have identified numerous instances where schools fail to maintain the required attendance and other records needed to document their compliance with applicable rules and regulations. An SED audit of one school reported serious problems concerning altered attendance records that may have resulted in fraudulent representations to SED.

- TUITION REFUNDS - We have identified problems in the school's computations of refunds due to students who drop out before completing their programs. Some schools have improperly computed tuition refunds that result in students and TAP being overcharged.

- OTHER AREAS - Our audits and SED reviews have found instances where schools exceeded approved student/teacher ratios, used unapproved facilities and did not have adequate equipment (e.g. computers) for the courses offered.

These violations along with "front loaded" tuition charges and high drop out rates as outlined in the Joint Staff Report result in a registered business school being able to substantially increase its profits to the detriment of the educational program. The Joint Staff Report concluded that "... registered business schools are able to generate more revenue when students fail to pursue programs than when students complete their studies."

2. Educational Impact

The improper operating practices at registered business schools contribute to the very high student drop out rate. The Joint Staff Report concluded that 70 percent of TAP recipients at these schools fail

to complete their program and 60 percent of TAP recipients fail to complete more than one half of the program. Even with the low completion rate, a Newsday article of June 22, 1986 stated "When students do graduate, they are unlikely to find the high-paying jobs recruiters often promise. Most graduates who are placed work at or slightly above the minimum wage."

While the Joint Staff Report focused on TAP issues, reports by other regulatory agencies and various newspaper articles have found many of the same problems in the proprietary vocational schools in general. Additional issues presented in this report also may relate to all students. Thus, from a consumer point of view, these findings and issues have substantially wider implications. They may effect all students in proprietary vocational schools not just TAP students at registered business schools.

3. Financial Aid Impact

Of the approximately 90 registered business schools locations receiving TAP, 79 are located in the New York City Metropolitan area and 11 are located in the upstate area. We have completed and issued 24 reports concerning registered business schools with the following results:

Area	Reports Issued	Recommended Disallowances
Downstate	14	$8,848,777
Upstate	10	1,114,483
Total	24	$9,963,260

In addition, we have ten draft reports on downstate schools in process with proposed disallowances totaling about $7.8 million

Although we have been making significant disallowances in our audits, the probability of actual recovery of TAP funds is limited as there appears to be a tendency for schools to go out of business before repaying a significant disallowance. Our recent analysis of the $9.9 million disallowed shows that $4.5 million is pending collection action by Higher Education Services Corporation, and that only $1 million of the remaining $5.4 million has either been collected or is under repayment or escrow agreements. We estimate that at least $4.4 million or nearly 45 percent of these disallowances are uncollectible since in most cases the schools have closed or filed bankruptcy.

4. SED Oversight and Monitoring

Many reviews and audits have disclosed a significant number of problems which appear to be fraudulent or willful violations of the statutes, rules and regulations. Currently, most complaints and

violations are being addressed on an individual basis. However, the extensive number of problems within the industry warrants a centralized investigation of these issues.

Despite the widespread problems identified, SED oversight of registered business school operations has been limited. Instances where schools have been formally charged in a disciplinary action by SED or penalized through fines, suspension or revocation of their license, are rare. In the few cases where schools have been formally charged, we are aware of only one recently initiated hearing that has been held to finalize the disciplinary action. In some cases, schools which have been charged with violations of the rules and regulations by SED have operated for long periods of time without a hearing being held to resolve the issues.

In our opinion, part of the problem of lax monitoring can be attributed to SED officials who view their role as advisors more than as regulators. However, an advisory role usually takes place in an atmosphere where those you are advising are already in compliance with basic requirements and you are striving for program enhancements.

C. Conclusions and Recommendations

The systemic problems identified through numerous audits must be addressed aggressively by SED officials. Even though we have increased our audit efforts, audits are not the solution to the problems of the proprietary vocational education industry. The problems we've identified are continuing and a large portion of our disallowances are not going to be collected because schools go out of business before repaying. Also our audits only cover those students who receive State TAP funds.

The abuses identified in the TAP program will only be prevented through enhanced monitoring by SED and increased emphasis on performance. Since registered business schools continue to violate operating requirements, SED must substantially enhance its program monitoring resources and its enforcement of statutory and regulatory requirements. These violations also warrant a centralized investigation.

Regulatory emphasis should be placed on performance results and increased minimum school operating and admission practices so that students who enter the programs have a reasonable chance to succeed. The following concepts should be considered for revising existing requirements:

- making specified graduation rates a condition for reapproval of programs,

- developing a process to evaluate the educational quality of programs offered,

- requiring teachers to have completed professional preparation at least equal to that required of teachers of equivalent curricula or courses in public secondary schools, and

- establishing minimum skill levels as part of program admission criteria.

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APPENDIX A - Summary of Audit Reports Issued by the Office of the State Comptroller

OFFICE OF THE STATE COMPTROLLER
STAFF STUDY ON THE
TUITION ASSISTANCE PROGRAM FOR
REGISTERED BUSINESS SCHOOLS

A. Background

The State Comptroller's general audit authority is set forth in the State Constitution and State Finance Law. In addition, Section 665 of the State Education Law specifically provides that "The Comptroller shall audit institutional adherence to the statutes, rules and regulations governing general and academic performance awards and shall be responsible for determining the amount, if any, owed to the state by an institution which amount represents overpayment to the institution on a student's behalf."

The Office of the State Comptroller entered into a Memorandum of Agreement in September 1977 with the Commissioner of Education, the President of Higher Education Services Corporation, the Director of the Division of the Budget, and the Commissioner of Taxation and Finance which sets forth the framework for a coordinated plan for ensuring the fiscal integrity of the Tuition Assistance Program. The State Comptroller's role is to carry out the audit function and verify that institutions are in compliance with the laws, regulations and policies applicable to the program.

1. Tuition Assistance Program

The Tuition Assistance Program (TAP) is the largest State-funded grant program administered by the Higher Education Services Corporation (HESC) to aid students in meeting the cost of their post-secondary education. TAP provides annual grants of from $100 to $2,700 a year for degree granting institutions and up to $2,200 a year for registered business schools. Students if eligible can receive an extra award for accelerated summer study. Awards vary based on such factors as adjusted New York State taxable income, a student's dependency status, the amount of school tuition, the level of study, the number of semesters for which awards previously were paid, and the year the student received his first award.

Pursuant to Article 13 of the Education Law, the Commissioner of Education is charged with promulgating regulations which prescribe the eligibility criteria which students must satisfy to receive a TAP award. HESC is responsible for administering the eligibility process and for making the award payments.

TAP awards are based, in part, on information provided by each student in his application to HESC at the beginning of each academic year. For each semester, quarter or term of the school year, HESC submits to each school a listing of the names of the students approved for payment based on the information provided on the students' application. The schools then certify whether each student listed is in compliance with the eligibility criteria (full-time attendance, matriculation, approved course of study, and level of tuition). Payments are made directly to the schools on behalf of the students receiving the awards. Total TAP payments made in three prior academic years are as follows: 1982-83 $298 million, 1983-84 $331 million, and 1984-85 estimated $381 million and for the 1985-86 academic year is estimated at $376 million.

According to previous studies, the majority of students receiving TAP finance their education through a combination of TAP coupled with Federal Pell grant awards and to a lesser degree utilize guaranteed student loans. While TAP is generally thought of as financial aid for attendance at degree granting institutions, registered business schools which are non degree schools, have participated in TAP since 1975. Students at registered business schools can receive as much as $3,300 in a calendar year; an annual TAP award (usually two semesters) of up to $2,200 and an additional payment of up to $1,100, if eligible for an accelerated summer study term.

2. Registered Private Business Schools

Private business schools registered under Section 5002 of the Education Law are those with a curriculum providing a sequence of courses to prepare an individual to pursue an office occupation. These courses generally include accounting or bookkeeping, marketing, business mathematics, business law, business English, shorthand, typing, and computer programming. While registered business schools offer programs of various lengths, Section 601 of the Education Law provides that only students enrolled in approved two year programs offered in a registered private business school are eligible for TAP.

About 90 registered business schools participate in TAP. Awards for students at these schools have grown significantly, from $7 million in the 1979-80 academic year to an estimated $39 million in the 1984-85 academic year. An additional increase of $6 million was projected for the 1985-86 academic year.

Apart from the granting of certificates and diplomas rather than degrees, there are a number of other significant differences between the registered business schools and degree granting institutions. The most significant differences are:

. Registered business schools measure their courses and programs in instructional hours, whereas colleges use credit hours.

. For programs at registered business schools, SED approves each individual course in the program. Program approval at colleges is less specific giving colleges more latitude and freedom in structuring the courses that comprise their degree programs.

. Registered business schools use an enrollment agreement (contract) that commits the students to a two year approved program; colleges have no comparable document, and enrollment is on a term by term basis.

. A number of registered business schools do not operate on the standard collegiate semester or quarter term structure, but instead operate on a continuous basis throughout the year. They start new groups of students at various points in the year, sometimes as often as semimonthly.

. Registered business schools are organized on a proprietary profit-making basis; most colleges are nonprofit institutions.

3. Student Characteristics

Previous studies provide the following information regarding the general and educational characteristic of the students attending registered business schools:

. Students are predominantly female, older than the typical full-time undergraduate student at degree granting institutions, and likely to be or have been married and/or have children.

. A high percentage of the students are black or Hispanic, low income, and financially emancipated.

. More than half of the students attending registered business schools in New York City have not received a high school diploma or its equivalent, and therefore would be expected to be enrolled in certificate programs. In contrast, well above half of the students attending registered business schools in the remaining areas of the State are believed to have obtained their high school diploma or its equivalent.

B. Reviews of Registered Business Schools

1. Staff Report to the Interagency Task Force on Student Financial Aid Programs

A study was made and a Joint Staff report was issued in March, 1985 by staff of the State Education Department, Higher Education Services Corporation, and the Office of the State Comptroller for review by the Interagency Task Force on Student Financial Aid Programs. The purpose of this study was to provide State administrators and policymakers with information and recommendations regarding the use of State student financial aid provided through the Tuition Assistance Program (TAP) and Federal student financial aid (the Pell Grant and Guaranteed Student Loan) programs to support students attending registered business schools. This study also examined problems identified at registered business schools by State and Federal regulatory agencies, and recommended remedial actions to address such problems.

The Joint Staff Report outlines the growth of the TAP program and primarily highlights the relationship between low completion rates and the profit incentive resulting from "front loaded" tuition contracts (i.e. the contracts obligate the students for a significant portion of the total costs of the program even though they may withdraw after a few weeks). The Joint Staff Report concluded that 70 percent of TAP recipients fail to complete their program; 60 percent of TAP recipients fail to complete more than one half of the program; and nearly 30 percent of the TAP recipients receive no more than one TAP award before withdrawing. In relating the low completion rates to the profit incentive the Joint Staff Report concluded "... registered business schools are able to generate more revenue when students fail to pursue their programs than when students complete their studies. This is due to institutional tuition and refund policies which allow such schools to retain a substantial portion of the tuition charge for the entire two-year program (with no proration by term or semester) for students who may drop out after only a week or two, and continuous enrollment practices which permit rapid refilling of vacated seats. Therefore, one seat can generate much more tuition income than would otherwise be generated by one student completing the program."

Included in the Joint Staff Report is information related to our audits and SED's reviews of registered business schools. Other problems reported are the use of unlicensed sales agents to recruit students, failure to meet established standards of quality (i.e. overcrowded classrooms) and failure to have the required instructional equipment (i.e. computers).

The Joint Staff Report recommends the following: schools be required by statute to apportion the program tuition charge on a term-by-term basis; explicit statutory authority be provided to HESC to limit or suspend TAP payments pending resolution of allegations of

substantial violations by schools; institutions with significant disallowances be required to enter into participation agreements as a prerequisite for continued participation in TAP; payment methodology be revised to make it more consistent with the way programs are offered; additional staff be provided to SED for monitoring schools' activities; and basic skills and English as a Second Language (ESL) instructional components in TAP eligible programs be limited.

The first four recommendations, which require statutory revisions, are being addressed in proposed legislation during the 1986 Legislative session. In an attempt to improve operations SED restructured the Bureau of Adult Program Supervision which monitors these schools. However, few if any additional staff have been provided to increase monitoring. Also, SED has not enacted regulations as recommended, limiting basic skills and ESL instruction.

2. Other Related Reviews and Activities

Since early 1985, there have been several investigative news reports concerning trade school operations. The most recent reports are:

. An April 1986 series of articles in the St. Petersburg Times of St. Petersburg, Florida concerning trade school operations in Florida. Many of the schools referred to in these articles also operate in New York State.

. A June 1986 series of articles in Newsday, a Long Island newspaper, reporting on abuses and problems in the trade school industry in the New York City area.

The various news reports parallel many of the problems uncovered in our audits and the findings of the Joint Staff Report. Additional allegations reported in the news reports are:

. Student allegations of recruiters making misrepresentations and promises that can't be delivered.

. Student allegations that schools gave them the answers to entrance exams before taking the tests.

. Teacher statements that they were told to teach courses that they had not been trained to teach.

Public hearings such as the December 1985 hearing held by the Assembly Committee on Higher Education, also have provided forums for students, educators, school officials and regulators to present alleged abuses and/or ways to improve the school operations and the delivery of financial aid.

Both the New York State Attorney General's Office and the New York City Consumer Protection Agency are currently reviewing the operation of specific schools. While it is our understanding that these reviews are consumer-oriented, the complaints filed with these agencies reflect the concerns of the Joint Staff Report and abuses cited in recent newspaper articles.

3. Conclusions

We conclude from these reviews and activities that substantial numbers of students drop out of the programs and that there are indications of fraud and abuse as evidenced by the number of student complaints regarding admissions and instructional activities.

While the Joint Staff Report focused on TAP issues, reports by other regulatory agencies and newspaper reports have found many of the same problems in the proprietary vocational schools in general. Thus, from a consumer point of view, the findings and issues in this report have substantially wider implication. They may affect all students in proprietary vocational schools not just TAP students at registered business schools.

C. Audit Results

1. Audits by the Office of the State Comptroller

a. Summary of Results

Of the approximately 90 registered business school locations receiving TAP, 79 are located in the New York City Metropolitan Area and 11 are located in the upstate area. We have completed and issued 24 reports (see Appendix A, Summary of Reports Issued) concerning registered business schools with the following results:

Area	Reports Issued	Recommended Disallowances
Downstate	14	$8,848,777
Upstate	10	1,114,483
Total	24	$9,963,260

In addition, we have ten draft reports on downstate schools in process which propose disallowances totaling about $7.8 million

Although we have been making significant disallowances based on our audits, the probability of actual recovery of TAP funds is limited as there appears to be a tendency for schools to go out of business before repaying a significant disallowance. Our recent analysis of the $9.9 million disallowed shows that $4.5 million is pending collection action by HESC, and that only $1 million of the remaining $5.4 million has either been collected or is under repayment or escrow agreements. We estimate that at least $4.4 million or nearly 45 percent of these disallowances are uncollectible since the schools have closed or filed bankruptcy.

In eight recent audits where our report has been issued or where the audit is still in process we have or may disallow 100 percent of the TAP funds because of significant violations. In several other audits we disallowed major portions of TAP funds. The reasons for disallowances, as explained in the following sections, are for violations of basic operational procedures and requirements contained in the Commissioner of Education's Rules and Regulations. These violations are not isolated instances but are indicative of a widespread pattern.

b. Problems Identified Through Audit

At many of the schools we audited, we have found significant non-compliance with the Commissioner of Education's Rules and Regulations. Each institution has violated one or more major operating requirements, including not providing the minimum number of instructions hours, not offering the instructional programs as approved, keeping poor

attendance records, using unlicensed teachers and not using approved entrance tests. Violations in these areas result in TAP funds being disallowed and may significantly impact on the quality of education provided the students.

. Programs Not Offered as Approved/Inadequate Attendance Records

The Commissioner of Education's Rules and Regulations require that an approved two year program offered at registered business schools be a minimum of 1,440 instructional hours and that the individual courses and hours be offered as approved by SED. Our audits have shown that at several schools, all or a large portion of the students did not receive the minimum number of instructional hours and/or that courses and hours offered significantly deviated from those approved by SED.

For example, at Adelphi Institute (Report NY-TAP-1-86) and New York Career Center (Report AL-TAP-3-85) we concluded that none of the graduates were offered the minimum hours and/or the program as approved by SED for periods covering three or more years. As a result, we disallowed all TAP funds totaling about $3.1 million for these schools.

Our determination that schools do not offer the minimum hours and programs as approved may be based in part on schools not maintaining the required attendance records. The Commissioner of Education's Rules and Regulations require that schools keep detailed attendance records for each class, laboratory or session. We found that some schools were not able to provide us with these records because they were missing, or the existing records were not maintained properly.

In some instances, schools did not require teachers to turn in attendance records at the end of a term, or school officials did not exercise proper care in maintaining the records. We also found that some teachers' attendance books were not used for recording attendance but were grade books. In other cases, the records were not clear as to whether students were present/absent or whether a class was given at all.

Detailed reviews of attendance records of several schools showed instances of the following:

- Conflicting information such as notes indicating that students were absent because of illness, yet attendance records had the students marked present.

- Duplicate records of the same class session with students being marked present on one record and absent on the other.

- Students being marked present by one teacher while other teachers showed the day as a holiday.

- Records lacking basic information such as the teacher's name, proper course title, the time offered and term.

- Records which appeared to be altered or falsified.

. Use of Unlicensed Teachers

The Commissioner of Education's Rules and Regulations require that instructors be licensed by SED for each course they teach.

We found in recent audits that the use of unlicensed teachers is widespread. For example, at Royal Business School (Report AL-TAP-12-85) we found that even though the school had been cited by SED in February 1982 for use of unlicensed teachers, it employed 30 unlicensed teachers during the period July 1982 through June 1984 covered by our audit. Also, our audit of Latin American School (Report 86-T-4) found that the school employed 61 unlicensed teachers, which was a major factor in disallowing over $800,000 of TAP funds for the 1983-84 academic year.

. Other Problem Areas

Our audits also found deficiencies in other areas which in some cases directly affect TAP eligibility and in some cases could indirectly affect the quality of education. For example, we have audited schools which were unable to document that students met the entrance criteria, or schools had used an unapproved entrance test. Other schools had very poor academic records or no records at all. For example, official transcripts did not always include all grades, courses taken, or grade point averages needed to verify that students were in good academic standing.

Additional items we found which are cause for concern were: schools exceeding the approved student/teacher ratio, the use of unapproved space to offer instruction, and incorrect tuition charges which affect the amount paid by the student as well as TAP.

. Violations Turn to Profit

A series of violations, when coupled together, can allow a profit motivated and unscrupulous provider to substantially increase profits to the detriment of the educational program. Such violations in a hypothetical case might include the following:

- using additional space which is not approved thereby increasing student capacity,

- exceeding the 25 to 1 student/teacher ratio in a number of classes,

- using an unapproved entrance test which may permit a large number of unqualified students to enroll, and

- using unlicensed teachers.

The above situation could result in a school which had a capacity of 250 (10 classrooms x 25 students per class) to add 5 more classrooms (unapproved space) and 10 more students to each class to more than double its capacity to 525 students. Given the high dropout rate, the front loaded refund enrollment contract, and the use of unapproved entrance tests, the school could substantially increase its income and profit.

2. SED Compliance Reviews and Audits

As part of its supervision of registered business schools, SED periodically visits schools to assess their level of compliance with the Commissioner of Education's Rules and Regulations. Findings of noncompliance may result in a detailed audit by SED of certain aspects of a school's operation.

SED has completed a number of audits and numerous reviews, many of which have identified instances of noncompliance with the Commissioner of Education's Rules and Regulations and in some cases non-compliance which would affect TAP eligibility. However, relatively few of these instances of noncompliance which affect TAP eligibility have been referred to the Office of the State Comptroller or HESC for follow-up. For example, in April 1985, SED issued a report on their audit of the American Business Institute in Manhattan, which identified major noncompliance with the Commissioner of Education's Rules and Regulations along with serious problems concerning altered attendance records that may have resulted in fraudulent representations to SED. To date, SED has not taken any follow-up action against the school and although the findings in the report have the potential for significant TAP disallowances, we were not informed of this report until we made a routine request in February 1986 for information related to our planned audits of American Business Institute locations.

Instances where schools have been formally charged in a disciplinary action by SED or penalized through fines, suspension or revocation of their license are rare. In the few cases where schools have been formally charged, we are aware of only one recently initiated hearing that has been held to finalize the issues. In some cases, schools which have been charged have operated for long periods of time without a hearing being held to resolve the disciplinary action.

In our opinion, part of the problem of lax monitoring can be attributed to SED officials who view their role as advisors more than as regulators. However, an advisory role usually takes place in an atmosphere where those you are advising are already in compliance with basic requirements and you are striving for program enhancements. Since the regulators perceive the registered business school industry as having many improper practices, we believe that SED must monitor school operations more closely and invoke appropriate sanctions or fines depending on the violation. For example, some schools were found to have incorrectly computed tuition charges, resulting in overcharges to students included in a test sample. In such instances, SED usually advises the school to correct the deficiency and to refund moneys only to the few students already identified. No fine or other penalty is assessed. In this situation, the school could have made a substantial profit by violating the regulation, since the majority of students attending these schools drop out and therefore a large number of other students could have been overcharged. The school should be required to recalculate all tuition charges and make appropriate refunds. In addition, SED should penalize the school accordingly.

3. Additional Educational Concerns

The widespread indications and concerns that registered business schools are failing to provide a quality education must be addressed not only through aggressive monitoring of school compliance with existing rules and regulations, but also by initiating new regulations to emphasize school performance and to upgrade minimum quality requirements.

a. Need to Assess the Quality of Program Offered

SED's current monitoring reviews do not assess the quality of the program offered but rather monitor adherence to Rules and Regulations. Without "quality" reviews neither the State nor the students have any assurance that the schools are providing quality education.

While measuring educational quality is not precise, SED in its high school registration process has chosen selected indicators to measure a high school's "vital signs." By reviewing indicators such as graduation/dropout rates, attendance rates, student/teacher ratios, support staff ratios, and graduation tests in basic skill areas, SED can make comparisons and identify schools for further review.

Application of such criteria to registered business school operations would provide SED with the basis needed to form initial judgements concerning the quality of education at these schools.

b. Teacher Qualifications

The level of teacher competency is currently a major concern in SED's evaluation of the quality of education in elementary and secondary schools. The Education Law and the Commissioner of Education's Rules and Regulations set forth the qualifications required of teachers in registered business schools. The Law and Regulations specifically require teachers in registered business schools to have completed professional preparation at least equal to that required of teachers of equivalent curricula of courses in public secondary schools to qualify for a license. However, contrary to the specific requirements of the Law, SED licenses most teachers under a less stringent section of the Regulations which requires that the person only hold a degree from an acceptable institution of college level with a concentration in the subject area to be taught.

Considering the minimum educational background of the majority of students enrolled in registered business school certificate programs and that the level of course work offered would have to be comparable to that offered in elementary and secondary schools rather than at a post secondary level, we question whether the teachers licensed under the less stringent section of the Regulations are appropriately qualified to teach this particular type of student.

With SED's emphasis on increasing the quality of teachers in the State's schools as a means of improving the quality of education and reducing the dropout rate, it seems that the application of higher teacher licensing standards as set forth in the Law at registered business schools would be appropriate.

c. Minimum Entrance Requirements

Programs have been approved by SED which permit students with extremely limited English and math skills to be admitted although the programs seem to require a higher level of skills. For example, a requirement for admission to Computer Programming with English as a Second Language (ESL) certificate program was broken in two basic parts, English language skills and math skills. The math admission criteria required the student to demonstrate a minimum of an 8th grade math level. In evaluating the student's English language skills there was no minimum score or level which had to be demonstrated. Thus, a student who had no English language skills and scored zero on the test, met the admission criteria.

In addition to the preceding paragraph, regarding the reasonableness of the admission criteria, the Joint Staff Report addressed the issue of whether basic skill instruction or ESL should be a major component of a TAP eligible program. (In the program discussed, ESL instruction comprised over 600 hours of the 1,500 hours program). In this regard the Joint Staff Report concluded:

> It is reasonable to be expected that such non-vocational components should be relatively minor portions of approved business programs and, if existing entrance requirements for such programs are properly administered and adhered to, it should be highly unlikely for large numbers of students with substantial language or basic skills deficiencies to be admitted into these training programs. Therefore, it is recommended that TAP eligibility be limited in regulation to two-year programs at registered business schools which have ESL or basic skills instructional components which do not exceed more than 20% of the approved program of study.

However, more than one year has elapsed now since the Joint Staff Report was issued and SED has still not enacted regulations to implement this recommendation.

Although we believe strongly that students with limited basic skills deserve a chance to improve their employability through education, it is not fair to them to be admitted to a program when they face almost certain failure. There are alternate programs which may be more appropriate to meet the educational needs of these individuals.

D. Conclusions and Recommendations

Our audits along with reviews by various government agencies and newspapers have raised widespread concerns about the ability of registered business schools to provide a quality education and to adhere to the laws, rules and regulations governing their operations. As a result, students may not be receiving the education they need to become more productive members of society, and therefore government funds intended to help these students are being wasted. Although current proposed legislation addresses some of these problems, the regulation and monitoring of this industry must be substantially improved to ensure that the registered business schools provide quality educational services to the people of New York State.

Reviews and audits have disclosed a significant number of problems which appear to be fraudulent or willful violations of the Laws, rules and regulations. Currently, most complaints and violations are being addressed by various regulatory agencies on an individual basis. However, the extensive number of problems within the industry warrants a centralized investigation of these issues.

State Education Department Monitoring Activities

Since registered business schools continue to violate their operating requirements, SED must substantially enhance its program monitoring and enforcement of statutory and regulatory requirements. The Joint Staff Report, issued over a year ago, concluded that additional staff was needed for monitoring activities and that "Swift and sure enforcement of existing statutory and regulatory requirements..." was needed. However, a year later, SED has not expanded its staff noticeably. In addition, despite the number and seriousness of the findings of noncompliance by OSC and SED's own staff, SED has instituted few disciplinary actions against violators. We conclude, as did the Joint Staff Report, that there is a need for a substantial increase in the regulatory effort by SED to ensure compliance with the Commissioner of Education's Rules and Regulations. To achieve this, SED would have to increase its staff or revise its priorities to reallocate substantially more staff to monitor these schools. Staffing increases appear to be needed at all levels especially in the legal area, to permit timely resolution of disciplinary charges in the hearing process. To our knowledge only one hearing has been completed in recent years. We recommend the following:

. SED monitoring reviews need to be more frequent, more comprehensive and should include an assessment of the quality of education, not just compliance with the Rules and Regulations.

. In cases where findings are of such a nature that they can be remedied, (overcharging of tuition, courses offered for less hours than approved) schools should be required to take prompt corrective action.

Regulatory Changes

Because of the high drop out rates, the current regulatory emphasis should be changed. Major emphasis should be placed on performance results and improved school operating and admission practices so that students who enter the programs have a reasonable chance to succeed. To meet these needs we offer the following recommendations:

. Consider making specified graduation rates a condition for reapproval of programs and for TAP eligibility. Graduation rate is currently one of the primary registration standards for high school reregistration.

. Establish points at which low graduation rates (i.e. those found to be marginally acceptable) would require program revision.

. Require schools to inform prospective students in writing of the completion rate for the past 12 month period for the program in which the student is enrolling. This should be presented in such a way that the student clearly understands what his/her chances of completion are, based on the past performance of students at the school.

. Require teachers to meet the standards set forth in Education Law, which require that teachers in registered business schools have completed professional preparation at least equal to that required of teachers of equivalent curricula or courses in public secondary schools.

. Establish minimum skill levels of ESL or basic skills as part of program admission criteria.

. Limit ESL or basic skill instructional components to a maximum of 20 percent of approved program of study or 360 hours (one semester of a four semester program) whichever is lower.

. Develop a process to evaluate the educational quality of the programs offered.

. Require standard attendance records and transcripts to reduce the time needed to review records.

. Seek revision of the disciplinary process to establish fixed fines or other penalties for specific noncompliance with the law or SED regulations.

Financial Aid

In addition to improving SED's administration and monitoring of registered business school programs, the existing laws and regulations should be enhanced to prevent some of the abuses of the TAP program which were reported in the Joint Staff Study and in our audits. In this regard, we recommend the following:

. Implement the recommendations of the Joint Staff Study, especially the one requiring an apportionment of tuition charges on a term by term basis.

. Initiate a penalty for significant improper TAP award certifications.

. Impose an interest charge from the time of erroneous or improper certification until the time of repayment.

. Require schools to submit certified reports similar to those required by the Federal government for Pell Grants, stating that they comply with the requirements of State student financial aid programs.

. Require schools to submit financial statements of their operations, certified by an independent licensed public accountant or an independent certified public accountant to determine the financial viability of the school.

. Require schools to be bonded for up to the amount of the value of one term's tuition receipts or require that tuition funds be held in trust and only be used by the school as earned to ensure that TAP funds and student tuition funds are adequately protected.

APPENDIX A

SUMMARY OF REPORTS ISSUED
TUITION ASSISTANCE PROGRAM
REGISTERED BUSINESS SCHOOLS

Report No.	School Name	Location	Date Issued	Disallowance	Total TAP Paid	Percent Disallowed
AL-TAP-08-79	Ridley Lowell Business School	Binghamton	9/25/78	$ 8,359	$ 48,963	17
AL-TAP-12-79	Mildred Elley	Albany	9/10/79	41,698	136,000	31
NY-TAP-13-79	McAvoy School	New York City	10/30/78	1,002,121*	1,305,480**	77
AL-TAP-17-80	Roethel's Business Institute	Ogdensberg	2/03/81	60,151	114,643	52
AL-TAP-24-80	Krissler Business Institute	Poughkeepsie	6/20/80	13,932	28,513	49
AL-TAP-06-81	Roney Careers Inst.	Rochester	3/13/81	15,231	74,659	20
AL-TAP-12-81	Market Training Inst.	Brooklyn	7/02/81	46,140	90,445	51
AL-TAP-13-81	Business Academy of Westchester	White Plains	10/13/81	379,030	379,030	100
AL-TAP-01-82	Business Automation School	New York City	3/31/82	215,441	215,441	100
AL-TAP-01-83	Spencer Business Inst.	Schenectady	3/21/84	274,044	319,885	86
AL-TAP-06-83	Stratford School	Albany	9/28/83	36,125	155,437	23
AL-TAP-02-84	Elmira Business Inst.	Elmira	3/22/84	264,263	341,791	77
NY-TAP-03-80	New York Bus. School	New York City	4/29/80	364,000	1,044,246	35
NY-TAP-01-82	Washington Bus. Inst.	New York City	9/25/81	1,500,000	3,200,000	47
NY-TAP-04-84	Tri-Boro Bus. Inst.	New York City	1/23/84	481,241	909,790	53
NY-TAP-02-85	Commercial Programming Unltd.	New York City	3/08/83	-0-	3,808,733	0
NY-TAP-03-86	Drake Business School	New York City	9/30/85	-0-	3,212,433	0
NY-TAP-01-80	Royal Business School	New York City	4/29/80	1,150	239,621	0
AL-TAP-04-85	Ridley Lowell Business School	Binghamton	7/09/85	21,650	208,960	10
NY-TAP-01-86	Adelphi Business Inst.	New York City	2/07/86	2,926,979	2,926,979***	100
AL-TAP-03-85	New York Career Center	New York City	2/12/86	151,134	151,134	100
AL-TAP-12-85	Royal Business School	New York City	4/09/86	1,329,320	2,718,204	49
NY-TAP-06-86	Spanish American Bus. Institute	New York City	2/26/86	-0-	567,909	0
86-T-4	Latin American School	New York City	6/17/86	831,251	831,251	100
				$9,963,260	$23,029,547	43%

* Includes $615,751 in State Guaranteed Student Loans.
** Includes $919,111 in State Guaranteed Student Loans.
*** TAP paid to all students covered by the audit.

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